

REMARKS

In response to the Examiner's requirement that Applicant elect one of the claim sets corresponding to one of the identified inventions, Applicant has selected claim group II (claims 9, 10, 12, 13, and 14) and cancelled the other claims except for claim 11 (claim group III). This selection and the cancellation of non-elected claims is made without prejudice to future prosecution, and does not constitute an admission that any of the cancelled subject matter is unpatentable. Applicant reserves the right to prosecute claims to such subject matter in any appropriate application.

Claim 9 was amended above so that it reads more smoothly.

Applicant also requests that claim group III (claim 11) be rejoined with claim group II for prosecution in this case. Inclusion of claim 11 would facilitate efficient prosecution, as the polypeptides of claim 11 are encoded by nucleic acids of claim 9. Thus, while claim groups II and III are placed in different classifications, an appropriate search would include both the nucleic acid and the encoded amino acid sequence. The Examiner stated that claim groups II and III are distinct. MPEP 803 indicates that restriction of distinct inventions is only appropriate where there would be a "serious burden on the examiner if restriction is [not] required". As indicated above, an appropriate search will include the subject matter of both claim groups and so recombining groups II and III would not impose a search burden. Also, consideration of the patentability of claim 9 and claim 11 would largely involve the same or similar issues. Therefore, recombining groups II and III would not impose a serious burden in prosecution. Further, the relatedness of the subject matter would result in significant duplication of effort for both the PTO and for Applicant if groups II and III are not rejoined. As no significant additional burden would be imposed by considering claim 11 along with claim 9 (i.e., recombine claim group III with claim group II) and efficiency in prosecution would be enhanced, Applicant respectfully requests that the Examiner reconsider and include claim 11 for prosecution in the present application.

No fee is believed due in connection with this communication. However, if any fee is due, kindly charge the appropriate amount to deposit account 50-1273.

Respectfully submitted,

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